



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

December 9, 1998

Ms. Amy L. Sims
Assistant City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457-3307

OR98-3024

Dear Ms. Sims:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID # 120164.

The City of Lubbock (the city) received a request for "the memorandum or any other written matter created by Don Vandiver, First Assistant City Attorney, regarding the development of Lubbock's single member districts and/or 1990 Census." The requestor is a member of the Lubbock City Council. You advise that the requestor is seeking the requested information under the Open Records Act as a member of the general public and not in his official capacity.¹ Given your representation, we will consider your arguments against disclosure under sections 552.101, 552.107, and 552.111 of the Government Code. You indicate that the responsive information consists of a legal memorandum and copies of selected court cases. You have submitted the memorandum and a sample of the court cases you seek to withhold.

You argue that portions of the memorandum and all of the cases are excepted from disclosure by section 552.107. You have marked the information you seek to withhold on the memorandum. Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information," that is, information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information

¹ If the council member seeks information in his official capacity, we believe that he has an inherent right of access to city records. See Attorney General Opinion JM-119 at 3 (1983); Attorney General Letter Opinion No. 93-69 (1993).

held by a governmental body's attorney. *Id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.*

You explain that the memorandum was drafted by a city attorney for the city council and includes both client confidences and attorney advice and opinion concerning future city redistricting. You argue that release of the requested cases in this circumstance would demonstrate the attorney's legal research and reveal the legal advice and opinions of the attorney. We have examined the submitted information. We conclude that you may withhold the information you have marked on the memorandum and the responsive cases under section 552.107.

Because we make a determination under section 552.107, we do not consider your additional arguments against disclosure. We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB\nc

Ref: ID# 120164

Enclosures: Submitted documents

cc: Mr. Victor Hernandez
City Councilperson
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457-2000
(w/o enclosures)